

<b>DATE OF DETERMINATION</b>	3 December 2018
<b>PANEL MEMBERS</b>	Bruce McDonald (Acting Chair), Stuart McDonald, Nicole Gurran, Cr Peter Harle and Cr Wendy Waller
<b>APOLOGIES</b>	Justin Doyle
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held at Liverpool City Council Library on 3 December 2018, opened at 1.07pm and closed at 1.45pm.

#### **MATTER DETERMINED**

PANEL REF – 2018SSW034 - LGA – Liverpool – DA745/2017AT 19-21 Harvey Avenue, Moorebank (AS DESCRIBED IN SCHEDULE 1)

#### **PANEL CONSIDERATION AND DECISION**

Having considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1, the Panel determined to approve the development application as described in Schedule 1 pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions recommended by the staff report with the amendment discussed below.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The reasons for the decision of the Panel were:

1. The proposed development will provide additional housing supply and choice, including affordable rental housing, within the City of Liverpool and the Sydney Western City District in a location near to the amenities and services available within Moorebank shopping centre and with ready access to bus transport services to Liverpool CBD available from Newbridge Road.
2. The Panel has considered the Applicants request to vary the development standard contained in Cl. 4.3(2) of Liverpool LEP 2008 relating to maximum building height and considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as that variation responds to the accommodation of the additional floor space entitlement secured under SEPP ( Affordable Rental Housing) 2009, and provides a roofing element which allows shading of the uppermost west facing unit. Further the additional height will not generate unacceptable impacts on nearby premises, is acceptable in the planned context of the locality and remains consistent with the objectives of the standard and the R4 High Density Residential zone.

3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP (Affordable Rental Housing) 2009, SEPP 55 -Remediation of Land, SEPP 65 Design Quality of Residential Apartment Development and its associated Apartment Design Guide and Greater Metropolitan Regional Environmental Plan No2- Georges River Catchment
4. The proposal adequately satisfies the applicable objectives and provisions of Liverpool Local Environmental Plan 2008 and Liverpool DCP 2008.
5. While it is recognised a building of this scale will inevitably promote a measure of overshadowing and overlooking in this current low density context measures have been taken in the building design to mitigate these impacts on existing housing and future adjacent high density developments. It is considered the proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby buildings the utility of the local road system including on street parking or the quality of local drainage.
6. While of distinctly differing scale and form from the prevailing low density housing surrounding the subject site, the proposed development is considered to be of acceptable form and scale consistent with the planned residential apartment context and character of the locality within which the site is placed. Further the Panel notes that the proposed building design has been reviewed by the Councils Design Excellence Panel and has been adjusted to satisfactorily address the design issues raised in its review.
7. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

## **CONDITIONS**

The development application was approved subject to the conditions in the Council Assessment Report with the following changes –

### **A New Condition 1(a) is added to read as follows:**

The schedule of colours and finishes be amended to take into consideration the urban heat sink affect with the darker colours being replaced by colours that a lighter and more reflective of heat to the satisfaction of the Manager Development Assessment.

### **New Condition1 (b)**

Prior to Construction Certificate the approved plans be amended to provide screens to balconies on levels 4 and 5 for improved privacy and sun screening.

### **Condition 102 is amended to read as follows –**

Waste bins must be stored in designated garbage refuse areas which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site onto neighbouring public or private properties. Bins presented to the street for collection shall be returned to the garbage room within 12 hours of collection.

### **Condition 88 (a) to read as follows:**

A restriction shall be registered, before the date of issue of the Occupation Certificate (Interim or Final), against the title of the property on which the development is to be carried out, pursuant to Section 88E of the Conveyancing Act 1919, in the following terms:

*Terms of the Restriction on Use*

The restriction applies for ten (10) years from the date of issue of the Occupation Certificate pursuant to Notice of determination of Development Application No. 745/2017 issued by Liverpool City Council.

The restrictions are:






- (a) A minimum of fifty (50)% of the gross floor area of the development, in this case:

Units

LG02, LG05, L1 06, L1 08, L1 10, L2 12, L2 14, L2 15, L3 16, L3 18, L3 20, L4 21, L4 24 & L4 26

will be used for the purposes of affordable housing as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009;

**Note: The allocation of units may be varied if required by the social housing provider subject to a minimum of 50% of the gross floor area of the development being used for the purpose of affordable housing pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 subject to written approval of Council's Manager Development Assessment.**

PANEL MEMBERS	
 Bruce McDonald (Acting Chair)	 Stuart McDonald
 Nicole Gurran	 Peter Harle
 Wendy Waller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PANEL REF – 2018SSW034 - LGA – Liverpool – DA745/2017
2	PROPOSED DEVELOPMENT	Construction of a six storey residential fat building comprising of 28 units, including landscaping works, associated site works and demolition of existing structures.
3	STREET ADDRESS	19-21 Harvey Avenue, Moorebank (Lots 29 & 30 DP236405)
4	APPLICANT/OWNER	Applicant - Andrew Hastie Owner - Andrew Hastie
5	TYPE OF REGIONAL DEVELOPMENT	The proposal is for an affordable housing development that has a CIV over \$5million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (BASIX) 2004</li> <li>○ Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>○ Liverpool Local Environmental Plan 2008</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Liverpool Development Control Plan 2008</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations: Consideration of the provisions of the Buildings Code of Australia</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: December 2018</li> </ul>

		<ul style="list-style-type: none"> <li>• Written submissions during public exhibition: 7</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – Nil</li> <li>○ Object – Jennifer Fitzgerald</li> <li>○ On behalf of the applicant – Chris Weston, Charlie Zappia and Andrew Hastie</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing Meeting – 5 November 2018</li> <li>• Site Inspection – 5 November 2018</li> <li>• Final briefing meeting to discuss council’s recommendation, 3 December 2018, 12.00pm to 1.00pm.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Bruce McDonald (Acting Chair), Stuart McDonald, Nicole Gurran, Cr Peter Harle and Cr Wendy Waller</li> <li>○ <u>Council assessment staff</u>: George Nehme and Glen Ford</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report